

EXHIBIT 4

Page 1

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF VIRGINIA

RICHMOND DIVISION

ePLUS, INC.,)
Plaintiff,)
v.) No. 3:09cv620
LAWSON SOFTWARE, INC.,)
Defendant.)

CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

Washington, D.C.

Wednesday, December 16, 2009

30(b)(6) Videotape Deposition of ePLUS, INC., by and through its designee, KENNETH GARY FARBER, and in his individual capacity, called for examination by counsel for Defendant in the above-entitled matter, the witness being duly sworn by CHERYL A. LORD, a Notary Public in and for the District of Columbia, taken at the offices of TROUTMAN SANDERS LLP, 401 9th Street, Suite 1000, Washington, D.C., at 12:09 p.m., and the proceedings being taken down by Stenotype by CHERYL A. LORD, RPR, CRR.

<p style="text-align: right;">Page 110</p> <p>1 BY MR. McDONALD:</p> <p>2 Q. Those are the ones you already have 3 licensed now.</p> <p>4 Right?</p> <p>5 A. Some that have licensed, and -- well, certainly the ones that have licensed, and the 4 defendants in suit in this particular matter.</p> <p>8 Q. Well, 3 of the 4 you have licensed in this 9 case, too.</p> <p>10 Right?</p> <p>11 A. That's correct, yes.</p> <p>12 Q. So there aren't any unlicensed users of 13 your patents that are competing with Lawson and 14 ePlus, are there?</p> <p>15 MR. ROBERTSON: Objection, calls for a 16 legal conclusion.</p> <p>17 Also, please don't reveal any 18 attorney-client communications.</p> <p>19 A. I wouldn't have the knowledge. I have not undertaken the analysis to make that determination.</p> <p>21 BY MR. McDONALD:</p> <p>22 Q. So as far as ePlus knows, there are no 23 competitors to ePlus and Lawson that are using the 24 patented technology without ePlus's permission.</p> <p>25 Right?</p>	<p style="text-align: right;">Page 112</p> <p>1 analysis of any other competitors; is that right?</p> <p>2 A. That's correct.</p> <p>3 Q. Has ePlus undertaken any efforts to 4 monitor whether or not its licensees mark any 5 products with the patent numbers involved in this 6 lawsuit?</p> <p>7 A. Yes.</p> <p>8 Q. What does ePlus do to monitor the patent 9 marking of its licensees?</p> <p>10 A. Well, for starters, I would -- I would hope that the licensees are honoring the agreements, but more importantly, we have had counsel involved in ensuring or notifying the licensees of their responsibilities as it relates to marking and coordinating those efforts on our behalf.</p> <p>16 Q. Have any communications been sent on 17 behalf of ePlus to any licensees beyond the 18 agreements themselves reminding them of marking 19 requirements?</p> <p>20 A. I believe so, yes.</p> <p>21 Q. Which of the licensees have received such 22 communications?</p> <p>23 A. I would hope all of them have. I don't know for sure that every single one had.</p> <p>25 Q. Are there written communications to that</p>
<p style="text-align: right;">Page 111</p> <p>1 MR. ROBERTSON: Same objection.</p> <p>2 A. I'd have to repeat the same answer.</p> <p>3 BY MR. McDONALD:</p> <p>4 Q. Okay. I just wanted to clarify, try to 5 ask it a little differently, because I put at the 6 beginning, as far as ePlus knows.</p> <p>7 A. Well, we won't know and don't know.</p> <p>8 We have competitors. I mentioned to you, there are -- there are dozens and dozens of competitors.</p> <p>11 Have we undertaken the time to do detailed analysis or asked counsel to do so?</p> <p>13 We haven't yet, so we don't have that knowledge, and I can't make that statement without having asked our counsel to go through that analysis.</p> <p>16 Q. So as -- as you sit here today, ePlus has 17 no basis to allege that any competitors are 18 infringing.</p> <p>19 Correct?</p> <p>20 MR. ROBERTSON: Calls for a legal 21 conclusion and object to the form.</p> <p>22 A. Yeah, I don't think I'm in a position to be able to know the answer to that question.</p> <p>24 BY MR. McDONALD:</p> <p>25 Q. That's because you haven't undertaken any</p>	<p style="text-align: right;">Page 113</p> <p>1 effect, give them notice?</p> <p>2 A. I believe there was.</p> <p>3 Q. Can you tell me what you recall about the 4 written communications you're aware of.</p> <p>5 A. Just a reminder to -- to ensure that they were following the agreement and marking appropriately where- -- whereby it was specified for them to do so.</p> <p>9 Q. Who wrote or sent those letters?</p> <p>10 A. That was all managed by our counsel.</p> <p>11 Q. Is that Mr. Robertson?</p> <p>12 A. I don't know if it was Mr. Robertson or Ms. Albert that sent it out or anybody -- or somebody else in their firm.</p> <p>15 Q. Okay. Somebody at Mr. Robertson's law 16 firm?</p> <p>17 A. That's correct.</p> <p>18 Q. Did SAP get such communications?</p> <p>19 A. I don't know. I don't -- there were differentiations in each agreement as it related to the marking provision, so I don't know specifically what their provision was and what they had to do as it related to marking.</p> <p>24 Q. You say, differentiations, are you saying 25 there's different marking requirements in different</p>

<p style="text-align: right;">Page 114</p> <p>1 license agreements?</p> <p>2 A. There may have been to my recollection.</p> <p>3 Q. Did Ariba get any communications outside</p> <p>4 the agreement relating to patent marking?</p> <p>5 A. Again, they may have.</p> <p>6 We asked counsel to, you know, follow up</p> <p>7 and ensure that we were marking and pretty much left</p> <p>8 it up to them to manage that for us.</p> <p>9 Q. Have you seen copies of any actual letters</p> <p>10 sent to any licensees saying in effect, don't forget</p> <p>11 to patent-mark?</p> <p>12 A. I may have seen one, maybe 2, just as a --</p> <p>13 as a sample.</p> <p>14 Q. You say, may have.</p> <p>15 I mean, do you believe you actually did</p> <p>16 see 1 or 2?</p> <p>17 A. I think I may have seen one. My</p> <p>18 recollection is that I've seen one.</p> <p>19 How is that?</p> <p>20 Q. You saved me another question.</p> <p>21 A. Okay.</p> <p>22 Q. Approximately when did you see that</p> <p>23 letter?</p> <p>24 A. I think -- I believe I saw -- I don't know</p> <p>25 if I actually -- I had seen the letter or I received</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Have you ever visited the Websites for SAP</p> <p>2 or Ariba?</p> <p>3 A. No.</p> <p>4 I haven't had the time to do any of that.</p> <p>5 Q. Why is it that you specifically checked</p> <p>6 the SciQuest Website for that?</p> <p>7 A. I think that was the one that in the last</p> <p>8 number of months had indicated they were coming out</p> <p>9 with a new release, and it was just curiosity on my</p> <p>10 part. So it was one of those things where I got one</p> <p>11 correspondence and it kind of led me to say, well,</p> <p>12 let me look and see, but that was the extent of it.</p> <p>13 Q. So is -- is SciQuest also the subject of</p> <p>14 that communication that you were describing earlier</p> <p>15 regarding somebody was coming out with a new product</p> <p>16 that was going to be marked?</p> <p>17 A. I believe it was them, yeah, yeah.</p> <p>18 Q. How does ePlus actually implement patent</p> <p>19 marking on its products?</p> <p>20 A. On specific products, we mark them on</p> <p>21 the -- what we call the splash screens, which is when</p> <p>22 a user goes into the system, you have the main screen</p> <p>23 of the system, and then you have a legal notification</p> <p>24 at the center bottom of the screen that lists the</p> <p>25 patents.</p>
<p style="text-align: right;">Page 115</p> <p>1 correspondence from -- from one of the associates at</p> <p>2 Goodwin stating that one of the licensees was coming</p> <p>3 out with a new release that they were going to mark..</p> <p>4 Q. Approximately when was that?</p> <p>5 A. It was in the past few months ago, I think</p> <p>6 is when the new release was coming out.</p> <p>7 Q. Has ePlus undertaken any steps beyond the</p> <p>8 communication you've described so far to actually</p> <p>9 look at products of licensees to see if they have the</p> <p>10 patent numbers on them?</p> <p>11 A. ePlus doesn't have access to, you know,</p> <p>12 the licensees' products to validate that, which is</p> <p>13 one of the reasons that we go to counsel for that. I</p> <p>14 think at one point in time I checked one of the</p> <p>15 Websites over the last number of months to see if</p> <p>16 they had anything on their Website related to the</p> <p>17 patent.</p> <p>18 Q. Whose Website did you check?</p> <p>19 A. I believe -- my recollection was that it</p> <p>20 was SciQuest.</p> <p>21 Q. Did you find anything at the SciQuest</p> <p>22 Website regarding patent marking?</p> <p>23 A. I believe I recall seeing a notification</p> <p>24 of the licensed patents from ePlus on their legal</p> <p>25 section of their Website.</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. Which products have that splash screen</p> <p>2 marked with a patent number?</p> <p>3 A. The products that have patents associated</p> <p>4 with them, so a procurement and content, it's our</p> <p>5 procurement and content solutions.</p> <p>6 We also hold patents in document</p> <p>7 management and our digital paper solution, so there's</p> <p>8 a patent on that system as well specific to that</p> <p>9 environment.</p> <p>10 Q. Does ePlus sell a specific module or</p> <p>11 system for what's called punchout in e-procurement?</p> <p>12 A. Well, we don't sell a system for punchout,</p> <p>13 no.</p> <p>14 Q. How is it that you help -- I mean, do</p> <p>15 ePlus customers have the capability of using</p> <p>16 punchout?</p> <p>17 A. The system has a capability of doing</p> <p>18 punchout for our customers.</p> <p>19 Q. Which system has that capability?</p> <p>20 A. It's our catalog and our procurement</p> <p>21 solution.</p> <p>22 Q. So those are under the brand names catalog</p> <p>23 plus and procure plus?</p> <p>24 A. Procure plus.</p> <p>25 Q. Do those always come with a punchout</p>